

**LEICESTER CITY COUNCIL
PENALTY NOTICE FOR EXCLUSION
CODE OF CONDUCT (Revised September 2013)**



1. Rationale

- 1.1 Parenting contracts, parenting orders and penalty notices are amongst the interventions available to promote better school attendance and behaviour. Better behaviour and attendance are essential to improve children's educational prospects and to avoid putting them at risk of criminal and antisocial behaviour.
- 1.2 Penalty notices relating to exclusion are a power available to local authorities from 1st September 2007, to help ensure parents fulfil their responsibilities to ensure their child is not out in a public place without reasonable justification during the first five days of each and every exclusion from school.
- 1.3 The local code of conduct is a requirement of The Education (Penalty Notices) (England) Regulations 2007 and is there to ensure that the powers to issue penalty notices are applied consistently and fairly across the Local Authority area and that suitable arrangements are in place for the administration of the scheme.

2. Legal Basis for the Issue of Penalty Notices

- 2.1 The Education and Inspections Act 2006, Section 103 places a duty on parents in relation to an excluded pupil, to ensure that their child is not present in a public place during school hours without reasonable justification during the first five days of each and every fixed term and permanent exclusion. These days are known as the "specified days of exclusion". Section 104 of the Act requires schools to notify parents in writing that they are responsible for the child during these days.
- 2.2 The Education and Inspections Act 2006, Section 105 allows for a penalty

notice to be issued to a parent guilty of an offence under section 103 (3).

- 2.3 The Act empowers designated local authority officers, head teachers (and deputy / assistant head teachers authorised by them) and the Police to issue Penalty Notices. For the purposes of this code of conduct, designated Local Authority Officers includes education welfare officers and managers within the Education Welfare Service.
- 2.4 The Local Authority and any persons authorised to issue Penalty Notices must have regard to the Human Rights Act 1998, Disability Discrimination Act 1995 and Sex Discrimination Act 1975 and the Equality Act 2006 and the Special Educational Needs Code of Practice.

3. Procedures for Issuing Penalty Notices

- 3.1 The issue of Penalty Notices will be administered by the Education Welfare Service to ensure compliance with the Regulations. Penalty Notices will always be issued by first class post as there may be health and safety implications involved in the operation of direct delivery.
- 3.2 A request for the issue of a penalty notice by either head teachers (or other authorised school staff, limited to deputy and assistant heads), police officers (including community support officers) or authorised LA staff, will be complied with, providing:
- The circumstances of the case meet the criteria for the issue of a Penalty Notice, as specified in the Code of Conduct, and
 - All necessary information is provided to the Education Welfare Service in order to establish that an offence under Section 103 Education and Inspections Act 2006 has been committed.
- 3.4 Parents will always be given the opportunity to provide reasonable justification prior to the issue of a penalty notice, or before directly commencing legal

proceedings.

- 3.5 Primary responsibility for issuing Penalty Notices rests with the Local Authority. Penalty Notices will only be issued subject to approval by the Principal Education Welfare Officer, or their deputy(ies).
- 3.6 There will be a maximum of one penalty notice per parent that can be issued in respect of each separate exclusion due to their failure to comply with s.103 Education and Inspections Act 2006. The maximum number of such penalty notices which can be issued to any parent in any twelve month period will be limited to six.
- 3.7 Within this Code of Conduct, parent is as defined in Section 576 Education Act 1996.
- 3.8 School hours are defined as “a school session or the break between sessions on the same school day”.
- 3.9 A public place means any highway or any other public place to which the public have access. A school is not a public place for this purpose.
- 3.10 The collection of payments and issuing of receipts will be administered by the Education Welfare Service on behalf of the Local Authority with support from the Finance department.

4. Circumstances for Issuing a Penalty Notice:

- 4.1 Great care should be taken to ensure that notices are properly issued. Where an excluded child is found to be in a public place on one of the “specified days for exclusion”, the parent(s) will be given the opportunity to provide reasonable justification prior to issuing the penalty notice.
- 4.2 It is the parent(s) responsibility to prove reasonable justification.

4.3 The Local Authority will not automatically conclude some justifications are unreasonable. Details of such as medical emergencies, hospital appointments and other medical appointments will help in the consideration of individual cases. A pupil found to be shopping for such as food or clothing are, without more evidence, unlikely to be justified circumstances. The decision as to whether the circumstances for being in a public place are justified or not will be determined by one of those authorised to issue a penalty notice.

5. Withdrawing a Penalty Notice

5.1 A Penalty Notice may be withdrawn by the Local Authority in any case the authority determines that:

- when it has not been issued in accordance with the Code of Conduct; or
- it has been issued to the wrong person; or
- it contains material errors.

6. Payment of Penalty Notices

6.1 The Education (Penalty Notices) (England) (Amendment) Regulations 2013 (Statutory Instrument No 757) came into effect on 1st September 2013. For a Penalty Notice issued in relation to an exclusion from 1st September 2013 onwards, these shorten the payment period during which a Penalty Notice may be paid: the Penalty Notice is £60 if paid within 21 days and £120 if paid within 28 days. If not paid within 21 days but before 28 days the penalty is £120.00. If not paid in full by the end of the 28 day period the Local Authority will commence legal proceedings for the offence under Section 103 Education and Inspections Act 2006.

6.2 Revenue generated from the Penalty Notices will be used to cover the costs of issuing and enforcing notices, or the cost of prosecuting recipients who do not pay. Any surplus will be surrendered to The Secretary of State.